# MONTANA LEGISLATIVE HISTORY

Chapter 86 1979

Bill H _____ S 328 Original bill & history ✓ C

| H. Committee on Bus & Industry | | | S. Committee on Bus. & Industry | | |
|---|---|---|---|---|---|
| Hearing Date(s) | _____ | ___C | Hearing Date(s) | _____ | ___C |
| | 3/1 | ✓ C | | 2/8 | ✓ C |
| | _____ | ___C | | _____ | ___C |
| | _____ | ___C | | _____ | ___C |
| Date Out | 3/1 | ✓ C | | 2/8 | ✓ |

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Senate BILL NO. 338

INTRODUCED BY Towe, Meiba, Anderson, Healy, Steinbeck

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 33-17-502 AND 33-18-212, MCA, TO ALLOW A LICENSED CASUALTY INSURANCE AGENT TO COLLECT A FEE FROM THE INSURED FOR PLACING A POLICY WITH THE STATE COMPENSATION INSURANCE FUND."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-212, MCA, is amended to read:

"33-18-212. Illegal dealing in premiums -- improper charges for insurance. (1) No person shall willfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.

(2) No person shall willfully collect as premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance and, as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the commissioner; or in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of or less than those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus line agents licensed under chapter 2, part 3, of the amount of applicable state and federal taxes in addition to the premium required by the insurer. It shall not be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy. The provision of this subsection does not prohibit the collection from an insured of a placement fee, not to exceed 7 1/2% of the annual premium, for placement through the state compensation insurance fund by a duly licensed casualty insurance agent. This placement fee is not a premium as defined in 33-15-102.

(3) Each violation of this section shall be punishable under 33-1-104."

Section 2. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) Any person not licensed as an insurance consultant in this state who identifies or holds himself out to be an insurance consultant without having been licensed as an insurance consultant under this part or any person who uses any other designation or title which is



SB 338
INTRODUCED BILL

likely to mislead the public and holds himself out in any manner as having particular insurance qualifications other than those for which he may be otherwise licensed or otherwise qualified is guilty of a misdemeanor and upon conviction shall be fined $1,500.

(2) Any person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives any fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who shall make recommendations or give advice with regard to any of the above without first having been licensed by the commissioner as an insurance consultant is guilty of a misdemeanor and upon conviction shall be fined $1,500.

(3) Nothing in this part applies to:

(a) licensed attorneys at law in this state acting in their professional capacity; ~~or~~

(b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in his professional capacity if neither he nor his employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services~~.~~; or

(c) a duly licensed casualty insurance agent who





accepts a fee from an insured for placement through the state compensation insurance fund as provided in 33-18-212."

-End-

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 8, 1979

The meeting of the Business and Industry Committee was called to order by Vice-Chairman Pat Goodover on the above date in Room 404 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members were present.

SENATE BILL 93: Senator Lowe and his subcommittee consisting of Senators Kolstad and Peterson worked with the Bankers' representatives, Mr. Harold Pitts and Mr. John Cadby. They met with Mrs. Driscoll from the Office of the Insurance Commissioner. The subcommittee reports the bill is in agreement with everyone and they support a Do Pass on SB 93.

DISPOSITION OF SENATE BILL 93: Senator Regan moved that Senate Bill 93 DO PASS. There was a second to the motion by Senator Dover. The Committee voted unanimously that SB 93 DO PASS.

SENATE BILL 328: Senator Lowe stated this is an act to allow a licensed casualty insurance agent to collect a fee from the insured for placing a policy with the State Compensation Insurance Fund.

Senator Lowe stated that in the event the employer has an insurance agent who takes care of most of his insurance, he might want the agent to cover the Workmen's Compensation as well.

This bill would allow the agent to charge up to a 7 1/2 percent handling commission. This would be between the agent and the employer. Senator Lowe would recommend the Committee approve it.

Senator Dover wondered if there might be some provision as to how the fee would be collected.

Mr. Norm Grosfield, representative from the Division of Workers' Compensation, said they do not support or oppose the bill.

Senator Dover wanted to know what the agent would be doing and if there was a need to justify his commission.

Mr. Grosfield stated this was really a matter between the agent and the employer.

Senator Goodover inquired as to the difference between a state plan and a private plan.

Mr. Grosfield stated that in some areas there is a substantial difference--as much as 50 percent, but probably not more than 20 or 30 percent.

DISPOSITION OF SENATE BILL 328: Senator Dover made a motion that Senate Bill 328 DO PASS.

A Roll Call Vote was taken on SB 328 and it was given a DO PASS by the Committee.

SENATE BILL 255: The Committee agreed to pass consideration of SB 255 since Senator Thiessen, sponsor of the bill, was unable to be present at the hearing.

SENATE BILL 99: Senator Goodover stated there are two options to the bill. Option B took the state out of the wine distribution system except as called for in the bill.

On second reading of SB 99 there were problems with the bill because there was a problem of revenue. They wanted to bring the bill back to the Committee to address some of these problems.

The Committee was given a copy of Option B. By going with Option B, it still allows wine in the liquor stores and in the grocery stores. It takes the state out of the distribution system.

Attorney Bob Pyfer stated that beer distributors could also distribute wine under this bill, but it would be regulated separately. The Department of Revenue would regulate it.

The Committee had a general discussion on distribution of wine.

Senator Blaylock stated he thought we definitely needed a Statement of Intent and the Committee concurred.

Mr. Pyfer stated he hasn't had an opportunity to go over this new bill carefully. He thinks it needs a new Statement of Intent, because there is rule-making authority involved.

The Committee asked Mr. Pyfer to do research for it. He agreed. The Committee will have a new Statement of Intent and research completed for a Work Meeting on Saturday, February 10.

ADJOURN: There being no further business, the meeting was adjourned at 10:55.

Pat Goodover

Sen. Pat Goodover, Vice-Chairman

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

46TH LEGISLATIVE SESSION - - 1979 Date Feb 8

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Pat Goodover, Vice Chairman | ✓ | | |
| Chet Blaylock | ✓ | | |
| Harold Dover | ✓ | | |
| Tom Hager | ✓ | | |
| Allen Kolstad | ✓ | | |
| Bill Lowe | ✓ | | |
| John Mehrens | ✓ | | |
| Bob Peterson | ✓ | | |
| Pat Regan | ✓ | | |
| Frank Hazelbaker, Chairman | ✓ | | |
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# STANDING COMMITTEE REPORT

February 8 19 79

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No 328

Respectfully report as follows: That Senate Bill No 328

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE COMMITTEE BUSINESS & INDUSTRY

Date Feb. 8, 1979 Bill No. 328 Time 10:15

| NAME | YES | NO |
|---|---|---|
| Pat M. Goodover, Vice Chairman | ✓ | |
| Chet Blaylock | ✓ | |
| Harold Dover | ✓ | |
| Tom Hager | abstain | |
| Allen Kolstad | abstain | |
| Bill Lowe | ✓ | |
| John Mehrens | ✓ | |
| Bob Peterson | ✓ | |
| Pat Regan | abstain | |
| Frank Hazelbaker, Chairman | abstain | |
| | | |
| | | |

Marjorie Nichols
Secretary

Chairman

Motion: Put HB 328 on Second Reading - Do Pass.

(include enough information on motion--put with yellow copy of committee report.)

SENATE BILL NO. 328 February 8, 1979

Mr. Chairman and members of the Committee:

For the record, I am Boyce Clarke representing Independent Insurance Agents of Montana

As Senator Lowe has explained, this bill would allow duly licensed casualty insurance agents to negotiate a placement fee with their customers for placing workers compensation coverage through the Montana Workers Compensation Fund. The fee is voluntary and negotiable - not more than 7½% of annual premium. Let me emphasize - voluntary and negotiable.

In handling workers compensation through private carriers, agents make basic application and filings with the Division - collect and remit premiums - determine eligibility for experience and size of risk credits - verify appropriate classifications and in many cases assist in completing employee and employer accident reports. In making placement arrangements, these same functions will be undertaken, with the exception of billing and premium collection.

Many of our accounts like to have their entire program in one agent's office, but in some cases the State Fund rates are more advantageous to the customer. This placement arrangement, then, will allow the agent to provide the coverage at the most favorable cost, and, if mutually agreed between agent and customer, to allow the agent to be paid for the effort expended.

The placement fee is not a commission. The State Fund pays no commission. The Division has no objection to this proposal.

Since this placement arrangement involves only activities and procedures a qualified licensed casualty insurance agent performs as a regular part of his daily business routine, I would ask your favorable consideration of this bill.

Thank you.

Bill Bryan Clark

March 1, 1979
Business & Industry
46th Legislative Session

The Business & Industry Committee of the House held a meeting Thursday, March 1, 1979 in room 437. The meeting was called to order at 9:00 a.m. by Chairman Joe Quilici. All members were present except Rep. Meyer and Rep. Stobie.

The meeting was opened to a hearing on SB 381.

Senator Himsel, sponsor, introduced the bill to the committee. Copy of Senator Himsel's testimony is attached.

Mr. Ed Sheehy representing the Montana Manufactured Housing Assoc., spoke in support of the bill. He said that mobile homes should be stricken from the definition of motor vehicles. He said that most banks and finance companies will not carry the paper on a mobile home contract because of the low interest rate. It costs them more to loan the money than they can make on the loan. This bill would raise the interest rate and therefore enable banks and finance companies to make the loans and extend the length of the loan; thus enabling more people to buy mobile homes.

Several persons representing the mobile home industry arose in support of the bill concurring with Senator Himsel and Mr. Sheehy. They were: Don Clayton, C & C Mobile Homes in Great Falls, Trent LeDuc, Golden Wheels Inc. Kalispell, Bruce Stiegler, Mobile Homes Show & Sales, Missoula, Bob Rangitsch, Rangitsch Bros, Missoula, Bob Paper, Total Housing Center, Great Falls, John Johnston, Mt. Mobile Homes, Helena, Glen Miller, General Electric Credit Corp., and Gary Mill, Missoula. Others who were present are listed on the witness sheet.

Harold Pitts, Mt. Bankers Assoc., spoke in favor of the bill. He said that when the rate was established, the interest rate for housing loans was at 6%. At that time 7% on mobile homes seemed adequate. Since then the industry has grown and the interest rates have gone way up. He said it was time for a change.

There were no opponents to SB 381

Questions from the committee followed. One of the concerns of the committee was whether recreational vehicles should be included in this bill.

Senator Himsel closed on SB 381.

SB 272 cont.

Questions from the committee followed.

Senator Lowe closed on SB 272.

SB 328

Senator Lowe, sponsor, explained the bill to the committee. The bill would allow "a licensed casualty insurance agent to collect a fee from the insured for placing a policy with the state compensation insurance fund."

Mr. Boyce Clarke representing Independent Insurance Agents of Montana, gave testimony in support of the bill. Copy of his written testimony is attached.

There were no opponents to SB 328

Questions from the committee followed.

Senator Lowe closed on SB 328.

SB 108.

Senator Lowe, sponsor, explained the bill to the committee. He said that the Senate had amended the bill down to what he felt everyone would agree was a workable bill. The bill would allow the Dept. of Revenue to license the catering of alcoholic beverages off the premises of a tavern. Senator Lowe did say that he thought the fee might be too high. He said the committee should consider possibly lowering it.

Phil Strope, Mt. Tavern Assoc., endorsed the bill.

Also present and stating his support was Berry Hjort.

Rep. Gerke arose in support of the bill. He said that he felt this bill as amended would be an answer to the problem that definitely does exist.

There were no opponents to SB 108.

Questions from the committee followed. Rep. Ellerd said that he thought the bill should be amended to include other organizations and not only apply to the tavern owners.

Senator Lowe closed on SB 108. He mentioned that the committee should keep in mind that the bill does not prohibit the sponsor of the license from negotiating for a piece of the profit, for example if he wanted part of the profit to go to an organization etc.

EXECUTIVE ACTION CONT.

SB 117

Rep. Spilker moved that SB 117 BE CONCURRED IN. Discussion on the motion followed. A vote was taken and carried unanimously. Rep. Spilker will carry SB 117 in the House.

SB 201

Rep. Cooney moved that SB 201 BE CONCURRED IN. The motion was discussed. A vote was called and carried unanimously. Rep. Cooney will carry the bill in the House.

SB 272

Rep. Ellison moved that SB 272 BE CONCURRED IN. Discussion followed. A vote was taken and carried unanimously. Rep. Ellison will carry the bill in the House.

SB 328

Rep. Harper moved that SB 328 BE CONCURRED IN. Following discussion a vote was taken and carried unanimously. Rep. Quilici will carry SB 328 in the House.

Vice Chairman Vincent said that action on SB 108 would be deferred until the hearing on Friday.

A motion was made and seconded to adjourn.

Meeting adjourned at 11:10 a.m.

Respectfully submitted,

JQ:cm

JOE QUILICI, Chairman

SENATE BILL NO. 328

INTRODUCED BY LOWE, MATHERS, ANDERSON, HEALY, STIMATZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 33-17-502 AND 33-18-212, MCA, TO ALLOW A LICENSED CASUALTY INSURANCE AGENT TO COLLECT A FEE FROM THE INSURED FOR PLACING A POLICY WITH THE STATE COMPENSATION INSURANCE FUND."

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REFERENCE BILL

any person who uses any other designation or title which is likely to mislead the public and holds himself out in any manner as having particular insurance qualifications other than those for which he may be otherwise licensed or otherwise qualified is guilty of a misdemeanor and upon conviction shall be fined $1,500.

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(b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in his professional capacity if neither he nor his employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services;i or





(c) a duly licensed casualty insurance agent who accepts a fee from an insured for placement through the state compensation insurance fund as provided in 33-18-212."

-End-